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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DAVID LOWERY, individually and
on behalf of himself and all others
similarly situated,

Plaintiffs,

vs.

SPOTIFY USA INC., a Delaware
corporation,

Defendant.

Case No. 2:15-cv-09929-BRO-RAO

Hon. Beverly Reid O'Connell

**JOINT STIPULATION
MODIFYING THE BRIEFING
SCHEDULE ON DEFENDANT
SPOTIFY USA INC.'S MOTION TO
DISMISS AND MOTION TO
STRIKE, AND RECIPROCALLY
EXTENDING THE PAGE
LIMITATION FOR POINTS AND
AUTHORITIES UNDER L.R. 11-6
BY FIVE (5) PAGES**

1 Plaintiff David Lowery (“Plaintiff”), individually and on behalf of all those
2 similarly situated, and Spotify USA Inc. (“Defendant”), by and through their
3 respective attorneys of record below, hereby enter into this Joint Stipulation,
4 subject to the Court’s approval, with reference to the following circumstances:

5 WHEREAS, on December 28, 2015, Plaintiff filed the Class Action
6 Complaint in the above-captioned action in the United States District Court for the
7 Central District of California (the “Complaint”); and

8 WHEREAS, Defendant intends to respond to the Complaint by filing the
9 following: (1) a motion to dismiss the lawsuit under Fed. R. Civ. P. 12(b)(2) or, in
10 the alternative, to transfer venue to the United States District Court for the
11 Southern District of New York under 28 U.S.C. § 1404(a) (the “Motion to
12 Dismiss”); and (2) a motion to strike the class allegations under Fed. R. Civ. P.
13 12(f) (the “Motion to Strike”); and

14 WHEREAS, the contemplated Motion to Dismiss and Motion to Strike
15 require an analysis of varied and complex issues involving personal jurisdiction,
16 venue, and class allegations; and

17 WHEREAS, Local Rule 11-6 limits parties to twenty-five (25) pages for a
18 memorandum of points and authorities in support of or in opposition to a motion;
19 and

20 WHEREAS, the parties seek a modest reciprocal extension of five (5) pages
21 to the applicable page limitation set forth in Local Rule 11-6 for the Motion to
22 Strike in order to thoroughly analyze the significant legal and factual questions
23 raised by the Class Action Complaint in a manner that will assist the Court in
24 resolving the motions; and

25 WHEREAS, Defendant intends to notice its Motion to Dismiss and Motion
26 to Strike for April 4, 2016, or as soon thereafter as the motions may be heard; and

27 WHEREAS, pursuant to Local Rule 7-9, the Plaintiff’s opposition to each of
28 those motions would accordingly be due March 14, 2016, and, pursuant to Local

1 Rule 7-10, the Defendant's reply in support of each of those motions would
2 accordingly be due March 21, 2016; and

3 WHEREAS, the parties have discussed modifying the briefing schedule
4 governing Defendant's Motion to Dismiss and Motion to Strike to allow each party
5 sufficient time to ensure complete briefing of all the issues;

6 NOW THEREFORE, the parties respectfully jointly propose and request
7 entry of an order modifying the briefing schedule and applicable page limitations
8 as follows:

9 1. No later than February 12, 2016, Defendant will file a Motion to
10 Dismiss the lawsuit under Fed. R. Civ. P. 12(b)(2) or, in the alternative, to transfer
11 venue to the United States District Court for the Southern District of New York
12 under 28 U.S.C. § 1404(a), the memorandum of points and authorities in support of
13 which is not to exceed twenty-five (25) pages;

14 2. No later than February 12, 2016, Defendant will also file a Motion to
15 Strike the class allegations under Fed. R. Civ. P. 12(f), the memorandum of points
16 and authorities in support of which is not to exceed thirty (30) pages;

17 3. No later than March 7, 2016, Plaintiff will file a memorandum of law
18 in opposition to Defendant's Motion to Dismiss, the length of which is not to
19 exceed twenty-five (25) pages;

20 4. No later than March 7, 2016, Plaintiff will also file a memorandum of
21 law in opposition to Defendant's Motion to Strike, the length of which is not to
22 exceed thirty (30) pages;

23 5. Defendant's reply in support of the Motion to Dismiss will be due
24 March 21, 2016;

25 6. Defendant's reply in support of the Motion to Strike will also be due
26 March 21, 2016; and

27 7. Defendant's Motion to Dismiss and Motion to Strike will be heard on
28 April 4, 2016 at 1:30 p.m.

1 **IT IS SO STIPULATED.**

2 Dated: February 11, 2016

MAYER BROWN LLP

3 By: s/ John Nadolenco

4 John Nadolenco

Attorneys for Defendant

5 **SPOTIFY USA INC.**

6 **MICHELMAN & ROBINSON, LLP**

7 By: /s/ David C. Lee

8 David C. Lee

9 *Attorneys for Plaintiff and Proposed Class*

10
11 **ATTESTATION**

12 Pursuant to Civil L.R. 5-4.3.4 regarding signatures, I, John Nadolenco, attest
13 that concurrence in the filing of this document has been obtained by all its
14 signatories.
15

16
17 Dated: February 11, 2016

/s/ John Nadolenco